



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

JAMAAL HINSON,  
Petitioner,

vs.

BRYAN STIRLING,  
Respondent.

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CIVIL ACTION NO. 1:23-3906-MGL

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
AND DISMISSING THE PETITION  
IN ACCORDANCE WITH FED. R. CIV. P. 41(B) FOR FAILURE TO PROSECUTE**

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Petitioner Jamaal Hinson (Hinson) filed this 28 U.S.C. § 2254 petition (the petition) against Respondent Bryan Stirling (Stirling). Hinson is representing himself.

The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting the petition be dismissed in accordance with Fed. R. Civ. P. 41(b) for failure to prosecute. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on July 22, 2024, but Hinson failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. It is therefore the judgment of this Court the petition is **DISMISSED WITH PREJUDICE** in accordance with Fed. R. Civ. P. 41(b) for failure to prosecute. Accordingly, Stirling’s motion for summary judgment is necessarily **RENDERED AS MOOT**.

To the extent Hinson moves for a certificate of appealability, such request is **DENIED**.

**IT IS SO ORDERED.**

Signed this 12th day of August, 2024, in Columbia, South Carolina.

/s/ Mary Geiger Lewis

MARY GEIGER LEWIS

UNITED STATES DISTRICT JUDGE

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#### **NOTICE OF RIGHT TO APPEAL**

Hinson is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.